

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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DOUGLAS PRESTON, ROXANA
ROBINSON, GEORGE SAUNDERS, SCOTT
TUROW, and RACHEL VAIL, individually
and on behalf of others similarly situated,

Plaintiffs,

v.

OPEN AI INC., OPENAI OPCO LLC,
OPENAI GP LLC, OPENAI, LLC, OPENAI
GLOBAL LLC, OAI CORPORATION LLC,
OPENAI HOLDINGS LLC, OPENAI
STARTUP FUND I LP, OPENAI STARTUP
FUND GP I LLC, OPENAI STARTUP FUND
MANAGEMENT LLC, and MICROSOFT
CORPORATION,

Defendants.

JONATHAN ALTER, KAI BIRD, TAYLOR
BRANCH, RICH COHEN, EUGENE
LINDEN, DANIEL OKRENT, JULIAN
SANCTON, HAMPTON SIDES, STACY
SCHIFF, JAMES SHAPIRO, JIA
TOLENTINO, and SIMON WINCHESTER,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

OPENAI, INC., OPENAI OPCO LLC,
OPENAI GP, LLC, OPENAI GLOBAL LLC,
OAI CORPORATION, LLC, OPENAI
HOLDINGS, LLC, OPENAI STARTUP
FUND I LP, OPENAI STARTUP FUND GP I
LLC, OPENAI STARTUP FUND

Consolidated Cases:

Case No. 1:23-cv-08292-SHS-OTW

Case No. 1:23-cv-10211-SHS-OTW

MANAGEMENT LLC, and MICROSOFT CORPORATION,
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Defendants.

**DEFENDANT MICROSOFT CORPORATION’S RESPONSE TO PLAINTIFFS’
MOTION FOR LEAVE TO FILE UNDER SEAL**

Pursuant to Paragraph 25 of the Protective Order (ECF 338), Defendant Microsoft Corporation responds to Plaintiffs’ Motion for Leave to File Under Seal (ECF 350) filed in connection with Plaintiffs’ letter motion seeking financial information (“Letter Motion”) (ECF 356). For the reasons stated below, Microsoft respectfully requests the Court grant Plaintiffs’ Motion. Specifically, Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion as illustrated in the redacted Letter Motion filed at ECF 359 and Exhibit C to the Letter Motion be sealed.

Although “[t]he common law right of public access to judicial documents is firmly rooted in our nation’s history,” this right is not absolute and courts “must balance competing considerations against” the presumption of access. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006). “The proponent of sealing ‘must demonstrat[e] that closure is essential to preserve higher values and is narrowly tailored to serve that interest.’” *Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F.3d 132, 144 (2d Cir. 2016) (quoting *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987)). “[T]he presumption of public access in filings submitted in connection with discovery disputes . . . is generally somewhat lower than the presumption applied to material introduced at trial, or in connection with dispositive motions” *Brown v. Maxwell*, 929 F.3d 41, 50 (2d Cir. 2019). “[W]hile a court must still articulate specific and substantial reasons for sealing such material, the reasons usually need not be as compelling as those required to seal summary judgment filings.” *Id.*

The Letter Motion contains a description of Exhibits C thereto, which is Microsoft's interrogatory responses that contain confidential information, the disclosure of which would unfairly prejudice Microsoft. Exhibit C to the Letter Motion, which has been designated "CONFIDENTIAL" pursuant to the Protective Order, contains confidential information about Microsoft's generative AI products. *See* Ex. A (Declaration of Lucky Vidmar). Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion is sealed from the public and Exhibit C be sealed in its entirety.

The information Microsoft seeks to seal and redact is the type of information commonly found to warrant sealing. *See* Order on Motions to Seal, ECF 132 (granting motions to seal similar information and documents in this case); *see also Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (citation omitted) (concluding that proposed redactions were "generally limited to specific business information and strategies, which, if revealed, 'may provide valuable insights into a company's current business practices that a competitor would seek to exploit.'").

For the reasons stated above, and those set forth in the Declaration of Lucky Vidmar, Microsoft respectfully requests that Plaintiffs' Motion for Leave to File Under Seal (ECF 350) be granted. Specifically, Microsoft requests that the redacted portion of the second full paragraph on page 2 of the Letter Motion as illustrated in the redacted Letter Motion filed at ECF 359 and Exhibit C to the Letter Motion be sealed.

Dated: April 4, 2025

Respectfully submitted,

/s/ Jared B. Briant

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